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**Cc:** CN=Philip Metzger/OU=DC/O=USEPA/C=US@EPA;"Karen Schwinn"  
[Schwinn.Karen@epamail.epa.gov]; Karen Schwinn" [Schwinn.Karen@epamail.epa.gov]  
**From:** CN=Roger Gorke/OU=DC/O=USEPA/C=US  
**Sent:** Mon 5/14/2012 4:54:30 PM  
**Subject:** Re: Fw: Delta Stewardship Council alert: Final Staff Draft of the Delta Plan coming Monday; personnel changes at the Council  
[Policymaker Memo-Delta Stewardship Council.pdf](#)

Tom,

Thanks for your answer, it was along the lines of what I was thinking was the case but didn't know exactly how to articulate it.

Have you all looked at the latest NAS document? Water quality seems to have a significant discussion.

Also, have you heard anything about enviros raising issues with the lack of an EIS for the CVP deliveries?

Here is the Isenberg document.

Roger

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**Cc:** Philip Metzger/DC/USEPA/US@EPA, "Karen Schwinn" <Schwinn.Karen@epamail.epa.gov>  
**Date:** 05/14/2012 12:42 PM  
**Subject:** Re: Fw: Delta Stewardship Council alert: Final Staff Draft of the Delta Plan coming Monday; personnel changes at the Council

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A couple of things:

(1) I don't know if I've seen the Phil Isenberg memo, which was originally attached to the incoming to EPA, et al. Could you please bounce that to me?

(2) As to whether the BDCP ROD would supercede the 2000 CALFED ROD, there is both a legal answer and a pragmatic answer.

The legal answer is that they are totally different beasts. The BDCP ROD will be a binding decision by NMFS and FWS to approve an HCP and issue take permits under the ESA, with a parallel action by the Cal F+G to approve an NCCP under state law. The CALFED ROD was a programmatic NEPA/CEQA planning document signed by about 15 or 20 different state or federal agencies. There are very few literal inconsistencies between the two documents, so there is no reason to think that one would necessarily supercede the other. And a programmatic planning document has very little binding effect on much of anything, as you know.

The pragmatic answer, though, is that we more or less stopped "implementing" the ROD, either in actions or money, somewhere in the mid-2000s. We never formally revoked the ROD, so in theory it is still in effect, but we really don't refer to it anymore. There are some remnant parts of the ROD that are still enforced, merely because they got picked up into state or federal legislation or bond measures (the annual cross cut budget is one thing that came out of the CALFED effort that we still do, but that is because it got picked up in federal legislation).

(3) As to Phil's comment: We were on a federal agency call last week, where it was announced that the BDCP agency negotiators were starting to look at something they call "BDCP+." Which means that they are accepting that they can't do what they want to do solely under the ESA umbrella, so they will look to some additional things (the "+") to make some stakeholders happy. Karen and I (and NRCS) literally burst out laughing, because what we have been doing for quite some time is simply reinventing the CALFED ROD. So yes, Phil, the CALFED ROD was probably as balanced as you will see coming out of this effort. But no one says "CALFED" anymore because of all the trashing it took in the mid-2000s.

The more things change.....

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Date: 05/14/2012 08:22 AM  
Subject: Re: Fw: Delta Stewardship Council alert: Final Staff Draft of the Delta Plan coming Monday; personnel changes at the Council

An additional question that comes to mind is what is the status of the 2000 ROD? Would any ROD for the BDCP supersede the 2000 ROD?

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Date: 05/14/2012 10:42 AM  
Subject: Re: Fw: Delta Stewardship Council alert: Final Staff Draft of the Delta Plan coming Monday; personnel changes at the Council

I'd be very curious if you all shared much of my superficial and greatly underinformed reaction, which was that this is confirmation that we got to more or less a substantively good, solid result with the Bay-Delta ROD of 2000, just by an inadequately inclusive process.

In other words, the ROD DID reflect a politically balanced and substantively sufficient/in the right direction solution, it just didn't have enough stakeholder ownership built through the process (thanks to the Wilson Admin. agencies' "we're the experts" perspective); but it was right enough substantively that it would ultimately have to be rediscovered/built on if the participants were not going to delay/avoid forever.

Or is that too pollyannaish, and are we still lacking in stakeholder responsibility and ownership? (In other words, am I seeing this like the ROD substantively, but that doesn't say anything about whether we're likely to get the same result as with the ROD?)

Interested in you all's thoughts.

Phil

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Date: 05/14/2012 10:11 AM  
Subject: Fw: Delta Stewardship Council alert: Final Staff Draft of the Delta Plan coming Monday; personnel changes at the Council

This is fantastic news, vis a vis SWRCB.

From: "Isenberg, Phil@DeltaCouncil" [Phil.Isenberg@deltacouncil.ca.gov]  
Sent: 05/11/2012 03:24 PM MST  
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Too much information for an email, so you get an attachment this time.

Please call if you have any questions.

Phil

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